

# NORTH CAROLINA DEPARTMENT OF TRANSPORTATION



## EXTERNAL DISCRIMINATION COMPLAINT PROCESSING PROCEDURES

# **PROCESSING PROCEDURES FOR EXTERNAL COMPLAINTS OF DISCRIMINATION**

*The complaint procedures outlined herein apply to the NCDOT and FHWA, and other primary recipients and sub-recipients in the administration of the Federal-aid highway program. The procedures cover discrimination complaints filed under Title VI of the Civil Rights Act of 1964, Civil Rights Restoration Act of 1987, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990, relating to any program or services administered by NCDOT as to sub-recipients, consultants, and contractors.*

*NCDOT will make every effort to obtain early resolution of complaints at the lowest level possible. All complaints of alleged discrimination will be investigated by the NCDOT's Office of Civil Rights and Business Development (OCR). The option of informal mediation meeting(s) between the affected parties and the OCR staff may be utilized for resolution. Upon completion of each investigation, the OCR staff will inform every complainant of all avenues of appeal.*

## **I. PURPOSE**

The purpose of the discrimination complaint procedures is to specify the process to be employed by the North Carolina Department of Transportation (NCDOT) in accordance with guidance from the Federal Highway Administration to investigate complaints, while ensuring due process for complainants and respondents. The process does not preclude the responsible staff of any agency from attempting to informally resolve complaints.

## **II. APPLICABILITY**

The complaint procedures apply to the beneficiaries of the NCDOT's programs, activities, and services, including but not limited to the public, contractors, subcontractors, consultants, and other sub-recipients of federal and state funds.

## **III. ELIGIBILITY**

Any person who believes that he/she has been subjected to discrimination or retaliation prohibited by any of the Civil Rights authorities, based upon race, color, sex, age, national origin, or disability may file a written complaint with NCDOT's Civil Rights Office. The law prohibits intimidation or retaliation of any sort. The complaint may be filed by the affected individual or a representative and must be in writing.

## **IV. DEFINITION**

**Discrimination** involves any act or inaction, whether intentional or unintentional in any program or activity of a Federal-aid recipient, sub-recipient, or contractor, which results in disparate (unfavorable) treatment, disparate impact, or perpetuating the effects of prior discrimination based on race, color, sex, national origin, age, disability or in the case of disability, failing to make a reasonable accommodation.

An act (or action) whether intentional or unintentional, through which a person in the United States, based on race, color, sex, age, national origin, or disability has been subjected to unequal treatment under any program or activity receiving financial assistance from the FHWA under title 23 U.S.C.

## V. FILING OF COMPLAINTS

1. **Time Limits and Filing Options** – A complaint must be filed no later than 180 calendar days after the following:
  - The date of the alleged act of discrimination; or
  - The date when the person(s) became aware of the alleged discrimination; or
  - Where there has been a continuing course of conduct, the date on which that conduct was discontinued or the latest instance of the conduct.
2. **Type of Complaints** – Complaints shall be in **writing** and **signed** by the complainant(s) or a representative and include the complainant's name, address, and telephone number. Complaints received by fax or e-mail will be acknowledged and processed. Allegations received by telephone will be reduced to writing and provided to the complainant for confirmation or revision before processing. (See Appendix F – Complaint Form)
3. **Complaint Basis** – Allegations must be based on issues involving race, color, national origin, sex, age, or disability. The term “basis” refers to the complainant's membership in a protected group category.

Protected Categories	Definition	Examples
Race	An individual belonging to one of the accepted anthropological racial groups; or the perception, based usually on physical characteristics that a person is a member of a racial group	Black, White, Hispanic, Asian American, American Indian, Pacific Islander, Filipino
Color	Color of skin, including shade of skin within a racial group	Black, White, light brown, dark brown, etc.
National Origin	Place of birth. Citizenship is not a factor. Discrimination based on language or a person's accent is also covered by national origin.	Mexican, Cuban, Japanese, Vietnamese, Chinese
Sex	Gender	Women and Men
Age	Persons of any age	21 year old person
Disability	Physical or mental impairment, permanent or temporary, or perceived.	Blind, alcoholic, para-amputee, epileptic, diabetic, arthritic

## VI. CONTACT INFORMATION

If there are any questions regarding these procedures or in filing a discrimination complaint, contact the NC Department of Transportation's Office of Civil Rights & Business Development at (919) 508-1808 or 1-800-522-0453.